JS-6

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 2:23-cv-05486-JLS-MAR Date: October 19, 2023

Title: Pilot, Inc. v. E&P Investments LLC et al

Present: HONORABLE JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE

Gabby Garcia N/A
Deputy Clerk Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:
Not Present
Not Present

PROCEEDINGS: (IN CHAMBERS) ORDER DISMISSING ACTION FOR LACK OF SUBJECT-MATTER JURISDICTION

Plaintiff Pilot, Inc. filed a complaint against Defendants, alleging state-law claims for breach of contract, breach of fiduciary duty, and breach of the covenant of good faith and fair dealing. (Compl., Doc. 1 ¶¶ 32–67.) Plaintiff also seeks cancellation of a trademark registration under 15 U.S.C. § 1119. (*Id.* ¶¶ 68–74.) Plaintiff invokes federal-question jurisdiction in relation to its trademark-cancellation request and invokes supplemental jurisdiction over its state-law claims. (*Id.* ¶¶ 3–5.)

The Court has an independent obligation to assure itself of subject-matter jurisdiction. *See Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004). "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3). As the party invoking federal jurisdiction, a plaintiff who files in federal court has the burden of establishing subject-matter jurisdiction. *See Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994).

"Section 37 of the Lanham Act [i.e., 15 U.S.C. § 1119] does not provide an independent basis for federal jurisdiction." *Airs Aromatics, LLC v. Victoria's Secret Stores Brand Mgmt., Inc.*, 744 F.3d 595, 599 (9th Cir. 2014); *see also San Diego Cnty. Credit Union v. Citizens Equity First Credit Union*, 65 F.4th 1012, 1037 (9th Cir. 2023)

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(a "cancellation []claim under § 1119 must have an independent jurisdictional basis"). Therefore, Plaintiff cannot rely on its trademark-cancellation request to establish federal-question jurisdiction over this action. Nor can Plaintiff reframe its request for trademark cancellation as a poorly pleaded trademark-infringement claim that would be sufficient to confer federal-question jurisdiction. *See Airs Aromatics*, 744 F.3d at 599–600 (considering such an argument but rejecting it on 12(b)(6) grounds). Plaintiff expressly labels its fifth claim for relief as "Cancelation of United States Trademark Registration." (Compl., Doc. 1 at 14.) Moreover, Plaintiff does not seek infringement remedies (*e.g.*, damages); it seeks only a declaration "that the Plaintiff's consent to the registration of the [trademark] is withdrawn and the Trademark rights . . . are cancelled." (*Id.* ¶ 74.)

For the foregoing reasons, the Court DISMISSES this action for lack of subject-matter jurisdiction and orders the action to be closed.

Initials of Deputy Clerk: gga